

THE LAW OFFICE OF WHITNEY D. ACKERMAN

17326 Tiara St, Encino CA 91316

T: (818) 426 - 9591

F: (866) 610 - 6540

Wackerma@gmail.com

October 25, 2021

PROPOSITION 65 VIOLATION NOTICE AND INTENT TO SUE LETTER

Response Due by December 25, 2021

VIA US MAIL

California Attorney General's Office
300 S Spring St #1700,
Los Angeles, CA 90013

Los Angeles District Attorney
211 W Temple St,
Los Angeles, CA 90012

Defense Counsel:

Kelsey Nicolaisen

KLN@manningllp.com

MANNING KASS LLP

801 S Figueroa St

Floor 15

Los Angeles, CA 90017

Counsel for:

VIKRAM S. BUDHRAJA; an individual; 11928 DARLINGTON AVE., LLC

Re: FRANCO CARLOTTO v 11928 DARLINGTON AVE., LLC and VIKRAM S. BUDHRAJA

NOTICE OF INTENT TO SUE – Notice Letter Requirement of Intent to Sue After 60 Day Period

Dear Counsel,

GENERAL INFORMATION

For general information, please see “The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary” prepared by the California EPA and attached to this notice as Appendix A. (Appendix not included in notice served on public enforcement agencies.)

PURPOSE OF NOTICE

Proposition 65 requires that notice of the alleged violation(s) and of the intent to sue be given to the violator(s) at least 60 days before a lawsuit is filed. This letter is sent pursuant to the provisions of Health & Safety Code § 25249.7, and satisfies the statutory notice prerequisite for filing an action in the Superior Court against any of the violators. If the governmental authorities, on which this notice is served, do not take action with respect to the alleged violation within 60 calendar days of the sending

of this notice, and an additional five days if the place of mailing and the place of receipt are both in California, Plaintiff Franco Carlotto may file suit.

DESCRIPTION OF VIOLATION

This notice is given by the Plaintiff FRANCO CARLOTTO (“Plaintiff” or “Carlotto”) in the soon to be filed matter in Los Angeles Superior Court. This letter is sent pursuant to the provisions of Health & Safety Code § 25249.6 et seq. The violations covered by this notice consist of the following:

CHEMICAL: Environmental tobacco smoke (ETS); Cannabis (marijuana) smoke.

DATE OF LISTING:

On June 9, 2006, the chemical Environmental tobacco smoke (ETS) was added to the list of chemicals known to cause cancer and/or reproductive toxicity, which is more than 15 years before the Plaintiffs served this notice.

On January 3, 2020, the chemical Cannabis (marijuana) smoke was added to the list of chemicals known to cause cancer and/or reproductive toxicity, which is more than 18 months before the Plaintiffs served this notice.

ROUTE OF EXPOSURE: inhalation.

DATES AND NATURE OF ALLEGED VIOLATION: Plaintiff is a tenant at 11928 Darlington Ave, Apartment #200 and most recently #302, Los Angeles CA 90049 (the “Property”), which is owned by Defendant 11928 DARLINGTON AVE., LLC., (“DARLINGTON”), and VIKRAM S. BUDHRAJA (“BUDHRAJA”) and (collectively, “Defendants”).

Plaintiff rented and moved into The Property on or around February 18, 2011 into unit 200. Wherein Plaintiff agreed to pay Defendants (the landlords) for a one-year lease, continuing month to month thereafter. At the times discussed herein to present the rent was at least \$1,870.56 per month. Defendants also collected a security deposit from Plaintiff in the amount of \$1,000.00.

On or about June 20, 2021, Plaintiff raised complaints of constant tobacco and marijuana smoke that were penetrating and permeating his apartment unit at the Property, causing him and his pet exposure and damages without warning of any kind. The smoking was determined and admittedly was coming from the unit directly beneath Plaintiff’s unit despite there being no warnings of tobacco smoke or marijuana smoke, and the indication that the Property was a no smoking property. It appeared that Defendants were and did permit the tenants below to their unit as a designated smoking area, without warning, and in breach of the lease agreement and posted notice that the building was a non-smoking property.

Despite notice from the Plaintiff, Defendants continued to allow Plaintiff to be exposed without warnings to Environmental tobacco smoke (ETS) and Cannabis (marijuana) smoke. The second-hand smoke exposure was constant and caused a health and safety risk to Plaintiffs. Plaintiffs raised their concerns and made various complaints and reports to Defendants. Defendants had actual and constructive knowledge that the building was being used as a designated smoking area and took no action to enforce a non-smoking policy, nor did they provide any warning signs indicating the dangers of second-hand smoke. Defendants did not provide any prior notice or warning to Plaintiffs under the

Environmental Protection Agencies Safe Drinking Water and Toxic Enforcement Act of 1986 –
Chemicals Known to the State to Cause Cancer or Reproductive Toxicity as of March 2021.

Defendants after having acknowledged the exposure and repeatedly apologizing moved Plaintiff to unit 302 on August 1, 2020, but this did not change the exposure previously, nor did it cure the fact the smoking was still ongoing without notice of any kind. Even in the new unit, Plaintiff was still exposed to the second-hand smoke as Defendants took no action to limit the smoking or post notices.

The smoking and failure to warn continue into the present. Plaintiff has request to know the location of the designated smoking area and where the Proposition 65 notices are located at the Property due to the ongoing smoking issues but has been met with empty responses that are all but tantamount to an admission of the Properties non-compliance.

The smoking continues on a 24/7 basis at the Property and Defendants have been on notice of their failure to warn since June 20, 2021 some 4 months or over 120 days, with notice of the issue on daily basis.

PLEASE DIRECT ANY INQUIRIES TO:

Whitney D. Ackerman, Esq.
17326 Tiara St
Encino, CA 91316
Telephone: (818) 426 – 9591

Additional Issues

Breach of Contract, Brach of Warranties of Habitability and Quiet Enjoyment, Nuisance

There are other issues which exist as a result of the smoking and other habitability issues that seem to plague this Property and its ownership. The issues Plaintiff has previously raised and resolved seem to have continued to go unchecked and untreated in all but the most slipshod fashion. Most if not all repairs are never made or are delayed to Defendant's desire to avoid spending money at the expense of the tenants, including Plaintiff.

However, it seems that even the City is not able to get Defendants to take their legal obligations to other human beings seriously. The City of Los Angeles Housing and Community Investment Department cited Defendants for their failures to comply with the law as to the habitability standards, and have done so on several occasions. The most recent instance included 28 violations of varying severity. Unfortunately, the bulding's manager and Defendants' agent put in writing that Defendant has no intention of making the required repairs but would rather leave the unit to decay and drive Plaintiff therefrom. The actions are in violation of the local LAMC and CA Codes. Worse, they show an intent by Defendants to deprive Plaintiff of his rights for the better of their wallet.

All rights reserved.

Sincerely,

/S/Whitney Ackerman

Whitney D. Ackerman

CERTIFICATE OF MERIT
Pursuant To Health and Safety Code Section 25249.7(d)

I, Whitney D. Ackerman, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice(s) in which it is alleged the parties identified in the notices have violated Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings.

2. I am the attorney for the noticing party.

3. I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the alleged exposure to the listed chemical that is the subject of the action.

4. Based on the information obtained through those consultations, and on all other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that “reasonable and meritorious case for the private action” means that the information provides a credible basis that all elements of the plaintiffs’ case can be established and the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute.

5. The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health and Safety Code section 25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: 10-25-2021

/S/Whitney D. Ackerman
Whitney D. Ackerman, Esq.

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen and am not a party to the action. My business mailing address is THE LAW OFFICE OF WHITNEY D. ACKERMAN 17326 Tiara St. Encino CA 91316. My email is Wackerma@gmail.com.

On October 26, 2021 I served the following document(s) described as **PLAINTIFF'S NOTICE PROPOSITION 65 VIOLATIONS and CERTIFICATE OF MERIT**, on all interested parties in this action by placing a true copy thereof enclosed in sealed envelopes addressed as follows:

California Attorney General's Office 300 S Spring St #1700 Los Angeles, CA 90013	Defense Counsel: Kelsey Nicolaisen KLN@manningllp.com MANNING KASS LLP 801 S Figueroa St Floor 15 Los Angeles, CA 90017
Los Angeles District Attorney 211 W Temple St Los Angeles, CA 90012	

[] By Mail: I am "readily familiar" with the firm's practice to collection and processing correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal Service on the same day with postage thereon fully prepaid at Encino, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

[X] By Fax: From FAX number (866) 610-6540 to the facsimile numbers listed above. The facsimile machine I used complied with Rule 2003(3), and no error was reported by the machine.

[] By Personal Service: I caused such envelope to be delivered by hand to the person(s) as indicated above.

[X] By Electronic Transmission. Pursuant to California Rules of Court, Emergency Rule 12, and the 8/10/20 General Order of the Los Angeles Superior Court, and Governor Newsom's March 19, 2020 Executive Order N-33- 20, I caused the document(s) described hereinabove to be sent to the addressee(s) at the electronic mail service address(es) of each party and/or his/her counsel of record as indicated above.

[X] State: I declare under penalty of perjury, under the laws of the State of California that the foregoing is true and correct.

Executed on **October 26, 2021**, in Encino, California.

By: /S/ Whitney D. Ackerman
Whitney D. Ackerman, Esq.